ELECTIONS BC

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GUIDE TO THE RECALL PROCESS

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Introduction

Elections BC has prepared this guide to help you understand the recall process. This guide, however, is not meant to substitute for the provisions of the *Recall and Initiative Act*. To ensure compliance with the law, participants in the recall process should refer to the *Recall and Initiative Act* and Regulations.

An Overview of the Recall Process

Recall is a process that allows registered voters to petition for the removal of a Member of the Legislative Assembly between elections.

Any registered voter can apply to have a petition issued for the recall of their MLA (the elected Member representing their electoral district in the Legislative Assembly). A registered voter who wants to start a recall petition must obtain an application form from the Chief Electoral Officer. The completed application form must be submitted to the Chief Electoral Officer with a non-refundable processing fee of $50 and include a statement of 200 words or less of why, in the opinion of the applicant, the Member should be recalled. A Member cannot be recalled during the first 18 months after his or her election.

If the application is complete and meets the requirements of the *Recall and Initiative Act*, a petition is issued to the applicant (called a "proponent") within seven days. The proponent then has 60 days to collect signatures from more than 40% of the voters who were registered to vote in the Member's electoral district in the last election, and who are currently registered as voters in B.C. The proponent may be helped by volunteers when canvassing for signatures.

When all the signed signature sheets are submitted, the Chief Electoral Officer has 42 days to verify that enough valid signatures have been collected. If enough valid signatures are on the petition, and the financing rules have been met by the proponent, the Member ceases to hold office and a by-election must be called within 90 days. A recalled Member can run as a candidate in the by-election.

Definitions

Advertising: Advertising is any public promotional material including, but not limited to, leaflets, lawn signs, billboards, brochures, buttons, badges, newspapers, radio, television, Web sites, newsletters and public address systems.

Authorized Participant: The authorized participants for a recall petition are the proponent of the petition and the Member who is the subject of the petition.

Canvasser: A registered voter who assists a proponent by canvassing for signatures on a recall petition. Canvassers must register with the Chief Electoral Officer prior to canvassing for signatures, and must not accept any pay or other inducement for canvassing.

Chief Electoral Officer: An Officer of the Legislature. The Chief Electoral Officer is responsible for the administration of the *Recall and Initiative Act*.

Conduct: Conducting advertising means to publish or sponsor recall advertising. Publish means the dissemination of recall advertising through various media: print, electronic (radio, television, and Web sites) and public address systems.

Member/MLA: A Member of the Legislative Assembly.

Proponent: A registered voter who applies for the issuance of a petition. For financing purposes, includes an individual who intends to become a proponent or who was a proponent.

Recall Advertising: Advertising used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the petition.

Recall Contribution: A recall contribution is an amount of money or the value of any property or services provided without compensation at any time by way of donation, advance, deposit, discount or otherwise to an authorized participant in relation to a recall petition.

Recall Expense: A recall expense is the value of property or services used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the recall petition.

Recall Petition: A petition issued by the Chief Electoral Officer under the *Recall and Initiative Act* for the recall of a Member of the Legislative Assembly.

Recall Petition Period: The period commencing on the day on which a recall petition application is approved in principle by the Chief Electoral Officer and ending either 60 days from the date on which the petition was issued by the Chief Electoral Officer, or on the day on which the petition is submitted to the Chief Electoral Officer, if earlier.

Recall Petition Proponent: The registered voter who applied for the issuance of a petition. For the purposes of recall financing and recall advertising, a recall proponent includes an individual who intends to become a proponent or who was a proponent.

Sponsor: A sponsor is an individual or organization who pays for recall advertising to be conducted, or who has recall advertising conducted on their behalf, or who receives the services of conducting the advertising without charge as a contribution.

The Recall Petition

The application process

S. 19 Any registered voter can apply to have a petition issued for the recall of the Member for their electoral district.

A registered voter who wants to start a recall petition must obtain an application package from the Chief Electoral Officer. When an application is submitted, it is checked to ensure it is complete. If it is incomplete in any way, the applicant is notified immediately so any errors or omissions can be corrected.

A complete application consists of the fully completed and signed application form, a non-refundable $50 processing fee and a statement of not more than 200 words of why, in the opinion of the applicant, the Member should be recalled. The Chief Electoral Officer does not assess the reasons provided by the applicant, and does not have authority to refuse to issue a petition on a basis that the reasons may be frivolous. The processing fee may be paid by cash, money order, traveller's cheque, or certified cheque payable to the Minister of Finance. Uncertified cheques will not be accepted.

The application form requires the applicant's name, residential and mailing addresses, telephone number and a solemn declaration. The solemn declaration must be witnessed by a Commissioner for taking affidavits for British Columbia. Government Agents may witness the declaration at no charge.

Issue of a recall petition

S. 20 If the application meets the requirements of the *Recall and Initiative Act*, the Chief Electoral Officer notifies the proponent, the Member in relation to whom the petition is to be issued and the Speaker of the Legislative Assembly that approval in principle will be granted and that a petition will be issued. Approval in principle of an application is officially granted at the time the participants of the recall are notified by the Chief Electoral Officer.

The Chief Electoral Officer must issue the petition to the proponent within seven calendar days after notice is given to the proponent, Member, and Speaker.

The recall petition period

S. 1 The recall petition period begins on the day a petition application is approved in principle, and ends either 60 days after the petition is issued, or when the proponent submits the signed signature sheets to the Chief Electoral Officer for verification, if earlier.

Recall petition signature sheet requirements

Seven calendar days after approval in principle is granted, the Chief Electoral Officer will issue, to the proponent, a cover sheet and signature sheet for the electoral district. The cover sheet and signature sheet provided must not be altered in any way. Only signatures gathered on copies of the "official" signature sheet will be considered for petition verification purposes. Signatures gathered on other forms or sheets will not be accepted.

It is the responsibility of the proponent to ensure that signature sheets and cover sheets are duplicated in sufficient quantities for signature gathering. Petition signature sheets must be printed on white 20 lb. bond paper to facilitate the signature verification process. This is the paper normally used in most photocopiers. Signature sheets must be printed on only one side, and must not be photocopied from a faxed "original". This is to ensure that the imaging system used in signature verification can accurately read each signature line. Cover sheets may be photocopied on any colour or weight of paper.

A cover sheet for the recall petition must be attached to the recall signature sheets while they are in circulation. The cover sheet identifies the Member who is the subject of the recall petition, includes the proponent's statement of why the Member should be recalled and provides information regarding the proponent of the recall petition.

Who may sign a recall petition

S. 21, 23 The *Recall and Initiative Act* requires that a recall petition be signed by more than 40% of the voters who were, on the date of the last election of the Member, registered voters for the Member's electoral district. On the date a voter signs a recall petition, the individual must be a registered voter in British Columbia. The number of registered voters in the Member's electoral district as of General Voting Day at the last election is used to determine the number of signatures needed for the recall petition to be successful.

It is recommended that more signatures be gathered to compensate for any invalid signatures that may be inadvertently collected. The proponent and Member are provided with a list of registered voters for the electoral district as of General Voting Day at the Member's last election showing the addresses where those voters are currently registered.

A signature on a petition must be accompanied by the residential address at which the individual who signed is registered as a voter, and must be witnessed by the individual who canvassed the signature (a registered canvasser). Signatures that do not include the residential address of the voter who signed the petition will not be counted. Mailing addresses are not acceptable.

Who may canvass for signatures

S. 22 A proponent may be helped by volunteers to gather signatures. The volunteers are called "canvassers". Canvassers may not accept, directly or indirectly, any pay or other inducement for canvassing for signatures.

Canvassers must be registered voters, and must have been a resident in British Columbia for at least six months before the date on which they intend to begin canvassing. Canvassers must register with the Chief Electoral Officer prior to canvassing for signatures. A canvasser does not have to be a registered voter in the Member's electoral district, and may be registered as a canvasser for more than one petition. A separate registration must be made for each petition.

Canvasser application forms are available from the Chief Electoral Office. Registered voters may apply to be canvassers any time after an application for a recall petition has been submitted to the Chief Electoral Officer. Applications for registration as a canvasser must include the applicant's name, residential address and telephone number. Each application is reviewed by the Chief Electoral Office. This review includes verification that the applicants are registered voters. Signatures gathered by unregistered canvassers are not accepted during the petition verification process.

Proponents who intend to canvass for signatures must also register as a canvasser with the Chief Electoral Officer to ensure that the signatures they gather are accepted.

Responsibilities of the canvasser

S. 21, 22 All canvassers must be registered with Elections BC prior to canvassing for signatures. Canvassers must ensure that the following rules are observed:

- Canvassers must witness every signature they collect. It is the responsibility of the canvasser to ensure that a person only signs a petition once.
- All canvassers must carry the identification issued by the Chief Electoral Officer and produce it upon request.
- A canvasser must not knowingly make any false or misleading statements about a petition or a Member who is the subject of a petition.
- A canvasser must not remove, cross out or interfere with any signature on a petition.
- Canvassers must not accept recall contributions of money, goods or services unless appointed as an assistant financial agent by the financial agent to the proponent.
- Information obtained in canvassing for signatures must not be used for any other purpose.

- Canvassers must ensure the signature sheets are signed in ink on the pre-printed side of the signature sheets. No lines or marks (other than relevant signatures and necessary handwriting for record keeping purposes) should be made on signature sheets. No diagonal line should be drawn across the unsigned portion of a page.
- Canvassers must ensure a cover sheet is attached to the signature sheet(s) while being circulated for signatures.
- The canvassers must canvass only during the recall petition period. Canvassing for signatures is not permitted following the close of a petition period, regardless of whether or not the full 60 days has elapsed.

Submitting a petition

S. 23 The proponent must submit, at one time, all of the petition pages containing signatures to the Chief Electoral Officer. The petition period ends when the proponent submits the petition to the Chief Electoral Officer, regardless of whether the full 60 days has elapsed. No late submissions or partial submissions will be accepted.

Therefore, it is recommended that the proponent be fully satisfied that they have gathered adequate signatures, including a surplus to compensate for any invalid signatures, prior to submitting a petition for verification.

Original signed signature sheets must be submitted to the Chief Electoral Officer; photocopies and faxes of signed signature sheets are not acceptable. The signature sheets must be accompanied by a summary sheet showing how many pages are being submitted and the total number of signatures they contain. The information contained on the summary sheet is verified by the Chief Electoral Office before any signature verification is conducted. The summary sheet serves as a receipt for the signed signature sheets. If it is apparent at that time that insufficient signatures have been collected, the recall petition fails.

Verification by the Chief Electoral Officer

S. 23, 24

Petition signatures are verified to ensure that the people who signed a petition were entitled to do so, and that the signatures on a petition match the signatures on file for those voters. Signatures that do not include the residential address of the voter who signed the petition will not be considered. The registration status of canvassers is also verified to ensure that signatures were gathered appropriately.

Names and residential addresses of signatories are matched to the Provincial Voters List. If no match can be found, the signature cannot be accepted. If a matching voter record is found, the signature on the petition must match the signature on file for the voter in order to be counted.

The proponent and Member or their designates are permitted to witness the verification process, and are notified by the Chief Electoral Officer of the times and location where verification will be conducted.

Recall Petition Financing

The *Recall and Initiative Act* contains many provisions governing the financing of recall proponent and Member campaigns. These provisions include the appointment of financial agents, obligations of financial agents, definitions of recall petition contributions and expenses, expense limits, reporting requirements and more. It is essential that participants follow these rules carefully. Failure to comply with the financing provisions of the *Recall and Initiative Act* may result in failure of the recall petition, or may result in significant penalties.

More detailed information on recall financing is available in Elections BC's publication, Recall Petition Guide for Financial Agents.

Financial agents for authorized participants

S. 107, 108 The proponent of the recall petition and the Member who is the subject of the petition must have financial agents.

The following people are disqualified from acting as a financial agent:

- election officials, voter registration officials, or employees of Elections BC;
- individuals who do not have the full capacity to enter into contracts (e.g. minor children);
- authorized participants of previous petitions who exceeded the expense limit, or did not file a financing report and have not paid the required penalties; and
- persons who, at any time within the previous seven years, have been convicted of an offence under the *Recall and Initiative Act* or the *Election Act*.

The proponent and the Member may act as their own financial agent or appoint another individual to act in this capacity. As soon as practicable, the proponent and the Member must provide the Chief Electoral Officer with completed appointment forms for their financial agents; or alternatively, confirm that they will be acting as their own financial agents. Assistant financial agents may also be appointed. A proponent or Member who wishes to incur recall expenses or accept recall contributions must be appointed as an assistant financial agent if a financial agent has been appointed.

Responsibilities of a financial agent

S. 108, 109 Financial agents are responsible for ensuring that the financial activities of a proponent or Member, in relation to a recall petition, are in compliance with the provisions of the *Recall and Initiative Act*. Some of the financial agent's responsibilities include:

- ensuring that all contributions, other income, expenses and expenditures are recorded and reported as required;
- ensuring that every expenditure of more than $25 is documented by a statement detailing the expenditure;
- ensuring that all money received by or on behalf of the proponent or Member in relation to the recall petition is deposited into an account in a savings institution;
- ensuring that all expenditures of the proponent or Member are paid from the same account in a savings institution;
- retaining, in British Columbia, all financial records and receipts relative to a report filed under the Act for a period of five years after filing the report; and
- filing a recall financing report within 28 days after the end of the recall petition period.

A financial agent is not personally liable for any liability of a proponent or Member unless the liability is personally guaranteed by the financial agent.

Assistant financial agents

S. 110 A financial agent may authorize one or more individuals to accept recall contributions and incur recall expenses on behalf of the financial agent.

Authorization to act as an assistant financial agent must be in writing, and a copy of the authorization must be sent to the Chief Electoral Officer as soon as possible.

Recall contributions

S. 111 A recall contribution is the amount of money or the value of any property (goods) or services provided without compensation by way of donation, advance, deposit, discount or otherwise to an authorized participant in relation to a recall petition.

This means that any money, services or property provided, at any time, without compensation to a proponent or Member in relation to a recall petition is a recall contribution, even if the contribution was received after the recall petition period ended, or before the period commenced.

Recall contributions are not eligible for tax receipts, and may not be claimed as a tax credit for income tax purposes.

The definition of recall contributions does not include:

- services provided by a volunteer;
- property of a volunteer, if the property is provided or used in relation to the services of the individual as a volunteer (e.g. the use of a volunteer's car by the volunteer is not a contribution);
- publishing without charge, news, an editorial, an interview, a column, a letter or a commentary in a bona fide periodical publication or a radio or television program;
- broadcasting time provided, without charge, as part of a bona fide public affairs program;
- producing, promoting or distributing a publication for no less than its market value, if the publication was planned to be sold regardless of the petition; and
- property or services provided by an election official, a voter registration official or any other employee of the Chief Electoral Officer in that official capacity.

If property or services are provided to a proponent or Member at less than market value, the difference between the market value and the amount charged is a recall contribution.

If a proponent or Member provides goods or services at greater than market value, the difference between the market value and the price paid is a recall contribution.

"Market value" is the lowest price charged for an equivalent amount of equivalent property or services in the market area at the time the property or services are provided. Payable tax (G.S.T. and P.S.T.) for equivalent goods or services should be included in the calculation of market value.

Charitable organizations are not allowed to make recall contributions. A charitable organization includes any organization whose objectives are the relief of poverty; advancement of education or religion; protection of health; governmental or municipal purposes, and other purposes beneficial to the community. This definition applies whether or not the organization is a registered charity for income tax purposes.

All recall contributions must be recorded and appropriately reported, regardless of when the contribution was received. Recall contributions may be received weeks, or even months, before a proponent has even applied for a petition. Such contributions are still recall contributions and must be recorded and disclosed.

Recall contributions of over $100 must be made by cheque, money order or credit card with the name of the contributor clearly shown. Cash contributions of over $100 cannot be accepted.

Volunteers

Volunteers are individuals who voluntarily perform the services and who receive no compensation, directly or indirectly, in relation to the services of the time spent providing the services. This means that employers

cannot continue to pay people while they are working as volunteers. If they do continue to get paid, they are not volunteers and the value of their services is a contribution from their employer and a recall expense.

If an individual uses paid vacation time to work on a campaign they will be considered a volunteer as long as they have not been directed by their employer to provide the services and the employer does not provide any extra vacation or leave.

Anonymous contributions

S. 116 An anonymous contribution means that the recipient does not know who made the contribution. An individual cannot request that a contribution be accepted and reported as an anonymous contribution.

Anonymous contributions are not permitted unless the contribution is made in response to a general solicitation for funds ("passing the hat") at a function held by or on behalf of an authorized participant **and** if the amount contributed by an individual has a value of **less than $50.**

Individuals wishing to donate $50 or more cannot do so anonymously, and should give the contribution directly to the financial agent, or place a cheque in "the hat" rather than cash, or put the contribution in an envelope with the date, the amount contributed, and the contributor's name and address printed on the envelope.

When accepting contributions made anonymously at a function, the financial agent is required to record a description of the function at which the contributions were collected, the date of the function, the number of people at that function, and the total amount of anonymous contributions accepted.

Authorized participants may want to consider having someone supervise the "passing of the hat" to ensure that no one places a $50 bill or more in the hat. If there is a total of $50 or more per individual in attendance contributed anonymously, the total amount collected by passing the hat will be considered a prohibited

contribution. Prohibited contributions must be returned to the contributors or sent to the Chief Electoral Officer for remittance to the Consolidated Revenue Fund.

Anonymous contribution limit

S. 118 The total amount of anonymous contributions that an authorized participant can accept in relation to a recall petition is $1,500.

Contributions to own campaign

S. 111 Money that an authorized participant provides to their own campaign is treated like any other recall contribution, and it must be recorded and disclosed as such.

This means that any money a proponent or Member contributes to his or her own campaign must be given to the financial agent. The financial agent is required to ensure that the money is deposited in the recall account in a savings institution. Funds may be withdrawn from that account to pay any of the recall expenses. If the proponent or Member provides property or services to the recall campaign, it is not a recall contribution.

Prohibited contributions

S. 119 If a prohibited contribution is received (for example, $20 cash anonymously by mail) the contribution must be returned. If it is not possible to return the contribution to the contributor, it must be turned over to the Chief Electoral Officer. Financial agents must keep a record of prohibited contributions and how each instance was resolved.

Prohibited recall contributions must be returned within 14 days after the financial agent becomes aware of the contravention.

Fundraising functions

S. 113 Section 113 of the *Recall and Initiative Act* provides special rules for fundraising functions. These special rules define what is, and what is not, a recall contribution with respect to fundraising events.

Rules for dinners, etc.

If an **organization** buys a ticket to a fundraising event held in relation to a recall petition, the price paid is a recall contribution. If the organization buys fundraising tickets and provides those tickets to other individuals for those individuals to attend the fundraising function, the organization is still the contributor for the purposes of the *Recall and Initiative Act*.

If an **individual** buys a ticket to a fundraising function and the ticket price is more than $50, the individual is making a recall contribution equal to the price of the ticket. If the price is $50 or less, the price paid is not a recall contribution. If the ticket price is $50 or less, an individual may buy up to $250 worth of tickets without it being considered a recall contribution. If an individual buys tickets to give to other individuals to attend the fundraising function, the person who buys the tickets is still the contributor for the purposes of the *Recall and Initiative Act*.

Rules for auctions, garage sales, etc.

If property or services are donated for sale at a fundraising function, and have a market value of $250 or less, the property or services are **not** considered recall contributions.

If property or services are purchased at a fundraising event at greater than market value, the difference between the price paid and the market value is a recall contribution.

Example:

A proponent is holding a garage sale to raise funds. If an individual donates a television worth $75 for resale at the garage sale, the individual donating the television is not making a contribution.

If the television is sold at the garage sale for $75 or less, the purchaser of the television is not making a contribution. If the television is sold for $275, the purchaser is making a recall contribution of $200.

Valuing property (goods) and services

S. 115 Other than for goods sold at fundraising functions as discussed above, if property (goods) or services are donated at no cost, the value of the contribution is the market value of the goods and services. The "market value" is the lowest price charged for an equivalent amount of equivalent property or services in the market area at the time the property or services are provided. Payable tax for equivalent goods or services (G.S.T. and P.S.T.) should be included in the calculation of market value of donated goods or services.

Example:

If a printer provides brochures for free, the fair market value would be what the printer would normally charge, including taxes, for those brochures.

When capital assets are donated, the contribution is the value of using the property.

Example:

If an individual provides office space at no charge, the individual is making a contribution equal to the market value of renting the office space.

If free advertising space in a periodical publication (magazines, newspapers, etc.) or free broadcasting time is provided equitably to both authorized participants for a recall petition, the value of the advertising is considered nil.

Discounted property (goods) and services

S. 111 If someone gives an authorized participant a discount on property (goods) and services by offering them at less than market value, then that person is considered to have made a recall contribution equal to the difference between the market value and the amount charged.

Example:

A printer gives a proponent a preferred rate on signs. The signs would normally cost $1,500, but the printer only charges the proponent $1,000. The printer's contribution is valued and recorded as $500.

If property and services are acquired from an authorized participant at greater than market value, the difference between market value and the price paid for the goods and services is a recall contribution and must be recorded as such.

Recording requirements for contributions to authorized participants

S. 120 The financial agent is required to record the following information for each recall contribution made to the authorized participant, whatever the value of the contribution:

- the full name and address of the contributor;
- the value of the contribution;
- the date on which the contribution was made; and
- the class of the contributor.

The classes of contributors are: (1) individuals; (2) corporations; (3) unincorporated organizations engaged in business or commercial activity (includes sole proprietors and partnerships); (4) trade unions; (5) non-profit organizations; and (6) other contributors.

If the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the financial agent is also required to record the full names and addresses of at least two individuals who are directors, principal officers, or principal members of the organization.

For **fundraising events** held by or on behalf of an authorized participant, the financial agent is required to record:

- a description of the function;
- the date of the function; and
- the cost, gross income and the net income or loss arising from the function.

In relation to all **anonymous contributions** received, the financial agent must record:

- a description of the function;
- the date of the function;
- the number of people in attendance; and
- the total amount of anonymous contributions received.

Loans

S. 112 Loans to an authorized participant are generally not considered to be recall contributions. A loan becomes a recall contribution if it is forgiven or written off. Additionally, if a loan is given with a preferential interest rate, the benefit derived from that preferential rate is a recall contribution. A preferential interest rate is a rate of interest that is less than the prime rate of the principal banker to the Province of British Columbia.

Debts

S. 112 If an authorized participant has any debts that remain unpaid for six months after they become due, and no legal proceedings to recover the debt have been commenced by the creditor, the amount of the unpaid debt becomes a recall contribution and must be reported as such. If the recall financing report has already been filed, a supplementary report must be filed with Elections BC.

Recall Expenses

Expense limits for authorized participants

S. 122, 123, 128 There are spending limits for proponents and Members. The limits are adjusted for changes in the Consumer Price Index. Proponents and Members in electoral districts with 25,000 or fewer registered voters as of General Voting Day for the last election of the Member may incur recall expenses up to $25,000. If the recall petition is for an electoral district with more than 25,000 registered voters, the $25,000 limit is increased by 25 cents for every registered voter in excess of 25,000. If the recall petition is in an electoral district where the population density is less than two registered voters per square kilometre, the basic expense limit ($25,000 plus any increases for more than 25,000 voters) is further increased by 15 cents times the number of square kilometres - to a maximum of 25% of the basic expense limit.

It is not necessary for a financial agent to calculate the recall expense limit. This calculation will be done by the Chief Electoral Office and the limit, including any Consumer Price Index adjustments, will be published in the *BC Gazette* and communicated to the proponent and Member.

If the proponent exceeds the established expenses limit, the recall petition fails and the proponent must pay to the Chief Electoral Officer a penalty of double the amount by which the expenses exceed the limit. If a Member exceeds the established expenses limit, the Member must pay to the Chief Electoral Officer a penalty of 10 times the amount by which the expenses exceed the limit.

Recall expenses

S. 114, 121 No individual or organization may incur a recall petition expense unless they are the proponent, a Member who is the subject of a petition, or a registered recall advertising sponsor.

A recall expense is the value of property or services used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the recall petition.

This definition means that anything used in a recall petition period is a recall expense, even if the item was purchased before the recall petition period commenced.

> **Example:**
>
> Six months before the recall petition period, an individual buys 1,000 posters at a cost of $1 each. During the recall petition period, only 800 posters are used. The recall expense with respect to the posters is the value of the 800 posters used (i.e. $800).

Certain expenses are not considered to be recall expenses. Any goods that an authorized participant produces from their own property are excluded from the definition of a recall expense.

Services and property provided by a volunteer, and goods produced by that volunteer from the property of that individual are not considered recall expenses.

Volunteers must not receive any compensation, directly or indirectly, in relation to the services or time spent providing the services. This means that employers cannot continue to pay people while they are working as volunteers. If they do continue to get paid they are not volunteers and the value of their services is a contribution from their employer and a recall expense.

If an individual uses paid vacation time to work on a campaign they will be considered a volunteer as long as they have not been directed by their employer to provide the services and the employer does not provide any extra vacation or leave.

Expenses not subject to expenses limits

S. 122 There are some recall expenses which the Act specifically excludes from being subject to the expense limit. The following expenses must be reported, but do not count against the allowable expense limit:

- fees charged by the Chief Electoral Officer under the *Recall and Initiative Act*;
- costs incurred for producing copies of the petition for gathering signatures;
- personal recall expenses;
- legal or accounting services provided to comply with the Act or the Regulations;
- services provided by a financial agent in that capacity;
- expenses incurred in holding a fundraising function if no deficit is incurred; and
- interest on a loan for recall expenses to an authorized participant.

Although these expenses do not count against the allowable expense limit, they are still considered to be recall expenses, and all other provisions of the Act apply.

Personal recall expenses

S. 114 The following recall expenses incurred by the proponent or Member, if they are reasonable, are personal recall expenses of the authorized participant:

- payments for care of a child or other family member for whom the authorized participant is normally directly responsible;
- the cost of travelling to or within the electoral district;
- the cost of lodging, meals and incidental charges while travelling to or within the electoral district;
- the cost of renting a temporary residence if it is necessary for the recall petition; and
- recall expenses incurred as a result of any disability of the authorized participant, including the cost of any individual required to assist the authorized participant in performing the functions necessary for supporting or opposing the recall petition.

Additional rules about recall expenses

All expenditures must be paid from money held in an account established for that purpose in a savings institution.

Additionally, other than a registered recall advertising sponsor, only a financial agent or an assistant financial agent or an authorized participant can incur a recall expense.

Recording expenses

S. 109 The financial agent must make every reasonable effort to ensure that all expenditures greater than $25 are documented by a statement setting out the particulars of the expenditure (i.e. an invoice or a bill).

The financial agent must also keep track of recall contributions of property (goods) and services that are used by the authorized participant.

Example:

If a printer donates leaflets worth $1,000 and all of the leaflets were used during the recall petition period, the financial agent would record a recall expense of $1,000, as well as recording that the printer made a $1,000 contribution. If only half of those leaflets were used, the recall expense would be recorded as $500, although it would still be reported that the printer made a $1,000 contribution.

Recall Financing Reports

Recall petition financing reports

S. 125 The financial agent is required to file a recall financing report on behalf of an authorized participant. This report must be filed with the Chief Electoral Officer within 28 days after the end of the recall petition period.

If a proponent does not file a recall financing report, the recall petition fails.

Additional requirements for recall financing reports

S. 125 Recall financing reports must be prepared in accordance with generally accepted accounting principles and must be filed with a solemn declaration of the financial agent as to its accuracy.

If any of the information required to be contained in a financing report changes, or if an authorized participant or their financial agent discover that the report did not completely and accurately disclose the required information, a supplementary report must be filed with the Chief Electoral Officer within 14 days after the financial agent or authorized participant becomes aware of the incompleteness or inaccuracy.

Auditing of recall financing reports

S. 125 After examining a recall financing report, the Chief Electoral Officer may require the report to be audited at the expense of the authorized participant and may establish a time limit by which the financial agent must provide the report to the Chief Electoral Officer.

Public inspection of recall financing reports

S. 125 Recall financing reports are available for public inspection at the Chief Electoral Office in Victoria during its regular office hours, as well as on the Elections BC Web site.

Recall Advertising

"Recall advertising" is advertising used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the petition. This includes all forms of advertising, such as media advertising, brochures, signs, Web sites, etc.

Recall advertising may only be conducted by a proponent, a Member who is the subject of a petition, or a registered recall advertising sponsor.

Sponsorship of recall advertising

S. 135 The sponsor of recall advertising is the individual or organization who pays for the advertising, who receives the services of conducting the advertising as a contribution, or who has recall advertising conducted on their behalf.

An individual or organization must not sponsor recall advertising with the property of any other individual or organization or indirectly through any other individual or organization.

Registration of recall advertising sponsors

S. 144 Individuals or organizations, other than the proponent and Member, who intend to sponsor recall advertising must register with the Chief Electoral Officer. An application must be made on the specified application form and include the following information:

- the full name of the applicant and, in the case of an applicant organization that has a different usual name, this usual name;
- the full address of the applicant;
- in the case of an applicant organization, the names of the principal officers of the organization or, if there are no principal officers, of the principal members of the organization;
- an address at which notices and communications under the Act and other communications will be accepted as served on or otherwise delivered to the individual or organization;
- a telephone number at which the applicant can be contacted; and
- identification of the recall petition in relation to which the applicant wants to be a registered advertising sponsor.

People eligible to sign an application are:

- the individual applicant; or
- if the applicant is an organization, two principal officers of the organization; or
- if an applicant organization has no principal officers, two principal members of the organization.

Applications must include a solemn declaration by the individuals(s) signing the application, stating that the applicant is not prohibited from being registered by section 146 (has exceeded a recall advertising expense limit or failed to file a recall advertising disclosure report).

If any information contained in an application for registration as a sponsor changes, the change must be made in writing and filed with the Chief Electoral Officer within 15 days after it occurs.

Recall advertising must indicate sponsorship

S. 137 Recall advertising must not be conducted (or published) unless it:

- identifies the name of the sponsor;
- indicates that it was authorized by the identified sponsor or, in the case of an authorized participant, the financial agent;
- indicates that the sponsor is a registered sponsor under the *Recall and Initiative Act*; and
- gives a British Columbia telephone number or British Columbia mailing address at which the sponsor or financial agent may be contacted regarding the advertising.

Example:

Authorized by Jane Doe, financial agent, (250) 123-4567; or
Authorized by Jane Doe Company, registered sponsor under the Recall and Initiative Act, (250) 123-4567.

Recall advertising sponsors must make available an individual who is responsible for answering questions from the public that are directed to the address or phone number indicated on the advertising.

Restrictions on rates charged for recall advertising

S. 138 Individuals and organizations must not charge a rate for recall advertising in a periodical publication (newspaper, magazine, etc.) or on radio or television that exceeds the lowest rate charged by the individual or organization for equivalent advertising in the same medium during the same recall petition period.

Recall advertising disclosure reports

S. 147, 148 Recall advertising sponsors must file advertising disclosure reports if the value of recall advertising sponsored during the recall petition period is $500 or more. A disclosure report must be filed with the Chief Electoral Officer within 28 days after the end of the recall petition period to which it relates.

A recall advertising sponsor disclosure report must be in the form prescribed by regulation and must include the following information:

- the value of the recall advertising sponsored by the sponsor, reported by class;
- the amount of the contributions accepted by the sponsor during the period beginning six months before the recall petition was issued and ending at the end of the recall petition period; and
- any amount of the sponsor's assets, other than assets received by way of contributions reported under the previous paragraph, that was used to pay for the recall advertising sponsored by the sponsor.

Amounts accepted from contributors must be reported separately for each of the following classes of contributor:

- individuals;
- corporations;
- unincorporated organizations engaged in business or commercial activity;

- trade unions;
- non-profit organizations;
- other identifiable contributors; and
- anonymous contributors.

For anonymous contributions the recall advertising disclosure report must include the dates on which the contributions were received, the amounts received on each date and, if applicable, the events at which they were received.

If the records of the sponsor indicate that, during the period for which contributions are required to be reported, a contributor made one or more contributions of money that, in total, have a value of more than $250 or a higher amount established by regulation, the report must include the following information:

- the full name of the individual;
- the class of the contributor;
- if the contributor is a numbered corporation or an unincorporated organization, the full names and addresses of at least two individuals who are directors, principal officers or principal members of the organization; and
- the value of each contribution and the date on which it was made.

If any of the information required to be disclosed in a recall advertising disclosure report changes, or if the sponsor becomes aware that the report does not accurately and completely disclose that information, the sponsor must file a supplementary report within 14 days after the sponsor becomes aware of the change or inaccuracy.

Late filing of reports

S. 149 A sponsor may be subject to a $500 late filing fee if a report is not filed within 28 days after the end of the recall petition period. The late filing period is 30 days from the original filing deadline.

Failure to file reports

S. 150 If a recall advertising report is not filed with the Chief Electoral Officer at the end of the late filing period, the sponsor:

- is deregistered as a sponsor; and
- must pay $500 for each day the report remains unfiled.

If the sponsor is an unincorporated organization, the members of the organization are jointly and separately liable to pay the $500 per day penalty.

Court order for relief from filing obligations

S. 151 A sponsor may apply to the Supreme Court to seek relief from an obligation to file a recall advertising disclosure report or from the penalty in relation to the filing of the report.

Obligation to maintain records

S. 152 Anyone who is, or has been, a sponsor of recall advertising must:

- ensure that the records required to be maintained are maintained in British Columbia; and
- retain those records for at least five years, or a longer period if specified by the Chief Electoral Officer, from the date of filing a report.

Questions?

For more information
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